

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MOHAMMED M. AHMED, et al.,

Plaintiffs,

-against-

T.J. MAXX CORP., et al.,

Defendants.

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ORDER

CV 10-3609 (ADS)(ARL)

LINDSAY, Magistrate Judge:

Before the court is defendant The TJX Companies, Inc.'s ("defendant") letter application filed November 5, 2013 seeking to quash a non-party subpoena served on Jeffrey Souza, a former employee of defendant that worked in Massachusetts. Plaintiffs oppose the motion by letter response dated November 6, 2013. Defendant's motion to quash the deposition of non-party witness Souza is denied.

The court notes that although defense counsel was made aware of plaintiffs' intention to depose Souza in mid-October, they delayed filing their motion until November 5, 2013 effectively cutting short defendants' and the court's time to review the application and respond. Mr. Souza has not objected to the deposition and has agreed to appear on November 8, 2013. As defendant has not identified a personal privilege or right that it is seeking to protect, the defendant lacks standing to object. *See Lev v. South Nassau Communities Hosp.*, No. CV 10-5435 (JS)(ARL), 2011 WL 3652282, at *1 (E.D.N.Y. Aug. 18, 2011) ("A party ordinarily lacks standing to challenge a non-party subpoena with a motion . . . to quash unless the party is seeking to protect a personal privilege or right") (internal quotation marks and citation omitted).

With respect to the depositions of the opt-in plaintiffs, the parties are directed to continue to confer with regard to the scheduling of these deposition. The parties may, if it becomes necessary, request an extension of the discovery schedule to allow defendants sufficient time to complete those depositions. Any such extension would be solely for the purpose of the conduction the opt-in depositions.

Dated: Central Islip, New York
November 7, 2013

SO ORDERED:

_____/s/
ARLENE ROSARIO LINDSAY
United States Magistrate Judge